COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: October 7, 2005
FILE NO: 2099535
ARB NO: 503-04

OFFICE CORRESPONDENCE

J. Kiser

FROM: JULIA KISER, SERGEANT
ADVOCACY UNIT

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

ATTN: LINDA HEMINGWAY

SUBJECT: [redacted] **DEPUTY SHERIFF, EMPLOYEE NO.** [redacted]

On July 8, 2004, Deputy [redacted] was given his Letter of Intent. On October 16, 2004, Deputy [redacted] was suspended without pay from his position of Deputy Sheriff, Item No. 2708A, for a period of four (4) days effective October 19, 2004, through October 22, 2004.

Deputy [redacted] appealed this matter to the Employee Relations Commission and appointed Arbitrator Samuel Reyes. The matter was scheduled for hearing on September 6-7, 2005.

On September 30, 2005, Arbitrator Samuel Reyes' award stated neither the physical evidence nor the testimony established that a cross fire situation in fact existed. In addition, the October 14, 2004, letter of suspension the reference is made to a "potential" not an actual cross fire situation. Therefore, the Department shall rescind the four (4) day suspension and shall make the Grievant whole for any loss of pay and benefits resulting from the suspension.

Deputy [redacted] shall be reimbursed back salary for the four (4) day suspension that he served on October 19, 2004 through October 22, 2004.

Please make the necessary changes in your records and to PPI to reflect the enclosed Arbitrator's award. If you have any questions regarding this matter, please contact me at (323) 890-5493.

JK:liz

Attachments



County of Los Angeles

Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

October 14, 2004



Deputy [redacted] #[redacted]
[redacted]

Dear Deputy [redacted]

On July 8, 2004, you were served with a Letter of Intention, indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2099535. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, Department executives determined that the recommended discipline is appropriate.

You are hereby notified that you are suspended without pay from your position of Deputy Sheriff, I tem No. 2708A, with this D epartment for a period of four (4) days effective October 19, 2004 through October 22, 2004.

An investigation under File Number IAB 2099535, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, on or about November 26, 2002, after a suspect vehicle accelerated in reverse towards you, you continued to fire your duty weapon at the moving vehicle, without first reassessing and taking into account the location of your partner as being in a potential cross-fire situation.

Prior to imposing this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

You may appeal the Department's action in this matter pursuant to Rule 18.01(c) of the Civil Service Rules.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Richard A. Adams, Captain
Commander, Lennox Station

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

RAA:EBS:rjb

c: Advocacy Unit
Ronnie M. Williams, A/Chief, Field Operations Region II
Internal Affairs Bureau
Personnel Administration
Office of Independent Review (OIR)
Lennox Station/unit Personnel File

(Attachment)
Civil Service Rule 18.01

C. An employee who is suspended for up to five (5) days may appeal such suspension to the Director of Personnel. Any such appeal must be in writing, shall contain specific detailed information, and must be received by the Director of Personnel within fifteen (15) business days of the employee's notification of the suspension. Please send your appeal to the Director of Personnel, Appeals Division, Kenneth Hahn Hall of Administration, 222 North Grand Avenue, Room 555, Los Angeles, California 90012. The Director of Personnel may not consider any information or charges made by the appointing power unless they are contained in the letter of suspension, nor any made by the employee unless the employee has previously provided them to the appointing power for consideration, unless such information or charges were not then known and could not have reasonably been expected to be known by the appointing power or employee. The Director of Personnel shall determine whether or not to consider the appeal, or whether or not the suspension is justified. (Ord. 88-0020 1 (part), 1988.)

3-01/050.10 Performance to Standards **

Members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner which will tend to establish and maintain the highest standard of efficiency in carrying out the functions and objectives of the Department.

Incompetence may be demonstrated by:

- A lack of knowledge of the application of laws required to be enforced
- An unwillingness or inability to perform assigned tasks
- The failure to conform to work standards established for the member's rank or position
- Failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention
- Absence without leave
- Unnecessary absence from an assigned area during a tour of duty.

In addition to the above, the following will be considered to be prima facie evidence of incompetence:

- Repeated poor evaluations
- A written record of repeated infractions of the Department's rules, regulations, manuals, or directives.



County of Los Angeles

Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169

LEROY D. BACA, SHERIFF



July 8, 2004



Deputy [redacted] #[redacted]

Dear Deputy [redacted]

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of four (4) days.

An investigation under File Number IAB 2099535, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, on or about November 26, 2002, after a suspect vehicle accelerated in reverse towards you, you continued to fire your duty weapon at the moving vehicle, without first reassessing and taking into account the location of your partner as being in a potential cross-fire situation.

Prior to determining this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

You may receive a copy of the material on which the discipline is based by contacting Reba Barnes of the Internal Affairs Bureau at (323) 890-5314, and arranging an appointment during the ten (10) day period in which you may respond.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Richard A. Adams, Captain
Commander, Lennox Station

RAA:EBS:rjb

c: Advocacy Unit
Employee Relations Unit
Ronnie M. Williams, A/Chief, Field Operations Region II
Internal Affairs Bureau
Office of Independent Review (OIR)
(File # IAB 2099535)

761551N25A - SH-AD (11/90)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: May 10, 2004

OFFICE CORRESPONDENCE FILE:

FROM: JOHNNY G. JURADO, COMMANDER
LEADERSHIP & TRAINING DIVISION

TO: RICHARD A. ADAMS, CAPTAIN
LENNOX STATION

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS HIT SHOOTING, NOVEMBER 26, 2002, INVESTIGATION #2099535 (aka #2076599)**

The purpose of this memo is to notify you of the review committee's findings and recommendations concerning the use of force incident which occurred on November 26, 2002.

The Committee met on April 22, 2004, and consisted of myself and Commanders Robert Binkley (FOR III), Kenneth Brazile (Commander of the Department) and Michael Savidan (Leadership & Training Division). The Committee deemed:

- as **Founded** the allegation that Deputy [redacted] #[redacted] violated the Department's Manual of Policy and Procedure section(s) 3-01/025.30, Use of Firearms and Deadly Force and/or Section 3-01/025.10, Unreasonable Force, and
- as **Unfounded** the allegation that Deputy Regan Fitzgerald #[redacted] violated the Department's Manual of Policy and Procedure section(s) 3-01/050.10, Performance to Standards.

The Committee recommended that Deputy [redacted] be suspended for a period of **ten (10) days** without pay from the position of Deputy.

JGJ:KRK:kk

TABLE OF CONTENTS

IV 2099535

ADDENDUM

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY
IV 2099535

Subjects: [redacted]**DEPUTY, #**[redacted]
REGAN FITZGERALD, DEPUTY, #[redacted]

On September 25, 2003, this incident was presented to the Executive Force Review Committee. The Committee expressed concerns regarding the number of rounds fired by Deputy [redacted] after the suspect vehicle had passed him and no longer posed a threat to his life. The Committee also had concerns regarding the tactical placement of the deputies radio car by Deputy Fitzgerald upon locating the suspect vehicle. Based on the above an Administrative Investigation was ordered.

COMPLAINANT

EXECUTIVE FORCE REVIEW COMMITTEE

SUBJECTS

DEPUTY [redacted]**#**[redacted]

Deputy [redacted] was interviewed by Internal Affairs Bureau personnel on January 22, 2004. A verbatim transcript of that interview is included in this report.

DEPUTY FITZGERALD, Regan, #[redacted]

Deputy Fitzgerald was interviewed by Internal Affairs Bureau personnel on January 22, 2004. A verbatim transcript of that interview is included in this report.

Table of Contents

SH 2076559

SHOOTING INCIDENT EVALUATION

EXHIBITS

MISCELLANEOUS DOCUMENTS

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date:	Bureau/Station/Facility:	Admin. Invest.?	Hit?
November 26 2002	LENNOX	☐	☒

Incident Information

URN: 002-12256-0399-057	Date: November 26, 2002	Time: 0109 HOURS

City or Station: HAWTHORNE

Location: [redacted] CRANBROOK AVE.

Nature of Incident: DEP'S LOSE SUSP VEHICLE AFTER A SHORT PURSUIT DEP'S LOCATE SUSP VEH IN A DRIVEWAY AT LOC. AS DEP[redacted]EXITS THE RADIO CAR THE SUSP BACKS UP TOWARDS HIM & STRIKES HIM. DEP [redacted]SHOOTS AT SUSP. SUSP THEN DRIVES TOWARDS DEP FITZGERALD AND HE SHOOTS AT THE SUSP WHO FLEES IN THE VEH. SUSP IS APPREHENDED LATER

Location Type (*circle one or more*):
- Backyard
- Beach
- Business
- Freeway
- Industrial
- Park
- Parking Lot
- Residence
- Rural
- School
- **Street** (circled)
- Other: ____________

Lighting (*circle only one*):
- **Darkness** (circled)
- Daylight
- Other
- Street Lights

Weather (*circle only one*):
- **Clear** (circled)
- Cloudy
- Fog
- Rain

Distance:

Incident Type (*circle one or more*):
- Accidental
- Armed Person
- Fleeing Suspect
- Foot Pursuit
- Gun Take Away
- **Moving Vehicle** (circled)
- Sniper/Ambush
- Startle
- Struggle Involved
- Traffic Stop
- Unarmed Person
- Unintentional
- Vehicle Pursuit
- Warrant Service
- Other: VEHICLE ASSAULT

Initiated by (*circle only one*):
- Arrest Warrant
- Call
- **Observation** (circled)
- One Person Unit
- Other
- Search Warrant
- Two Person Unit

Prior Activity (*circle only one*):
- Detective
- Inmate Transport
- Other
- **Routine Patrol** (circled)

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect	Aero Unit?	Canine Unit?
12	0	☒	☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	City	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	

Supervisors

Employee #	Last Name	First Name	M.I.	(*circle one or more*)
[redacted]	JOHNSON	JIMMIE	C.	**On Duty** (circled), Present during shooting, Witness to shooting, Involved in shooting
[redacted]	COOK	FRED	E.	**On Duty** (circled), Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	JOHNSON	MYRON	R.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	VERA	ELIZER	T.

PSTD Use Only
SH # 2076559

Officer Involved Shooting

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
NOVEMBER 26, 2002	0340 HOURS		

Employee #	Last Name	First Name	M.I
[redacted]	LEE	STACY	S.
[redacted]	SMITH	RICHARD	G.
[redacted]	GOODEN	JOSEPH	M.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E#1	S#1	FH	HK	45	Y	Y	GS	LE
E#2	S#1	FH	BR	9	Y	Y	NN	
S#1	E#1	OV	ZZ				NN	
S#1	E#2	OV	ZZ				NN	



Officer Involved Shooting
Involved Employee Information

URN: 002-12256-0399-057

Involved Employee

E 1

Employee # [redacted] | Last Name [redacted] | First Name [redacted] | M.I. [redacted]

Sex: [redacted] | Rank: DEPUTY | Unit Assignment: [redacted] | Work Assignment (Unit #, Module, etc.): [redacted]

ShiftTime (*circle only one*): EM PM Day | ShiftType (*circle only one*): Regular Overtime Off Duty | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case # | Interviewed? ☐

Hrs of sleep prior to shooting: | Duty Time (hrs): [redacted] | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest | Other Factors:

Age: [redacted]

Range Qualification Date: [redacted] | PPC Qualification Date: [redacted] | Laser Training Date: [redacted]

Certified with Weapon Used? [redacted] | Patrol Certification? [redacted] | Certification Unit: [redacted] | Prior Shootings? [redacted] | Number of Prior Shootings: [redacted]

Field Training Officer Emp # [redacted] | Last Name [redacted] | First Name [redacted] | M.I. [redacted]

Field Training Officer Emp # [redacted] | Last Name [redacted] | First Name [redacted] | M.I. [redacted]

E 2

Employee # [redacted] | Last Name: FITZGERALD | First Name: REGAN | M.I.: P.

Sex: M | Race: WHT | Rank: DEPUTY | Unit Assignment: LENNOX | Work Assignment (Unit #, Module, etc.): [redacted]

ShiftTime (*circle only one*): EM PM Day | ShiftType (*circle only one*): Regular Overtime Off Duty | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case # | Interviewed? ☐

Hrs of sleep prior to shooting: | Duty Time (hrs): [redacted] | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest | Other Factors:

Age: [redacted] | Height: 6'00" | Weight: 190lbs

Range Qualification Date: [redacted] | PPC Qualification Date: [redacted] | Laser Training Date: [redacted]

Certified with Weapon Used? [redacted] | Patrol Certification? [redacted] | Certification Unit: [redacted] | Prior Shootings? ☒ | Number of Prior Shootings: 1

Field Training Officer Emp # [redacted] | Last Name [redacted] | First Name [redacted] | M.I. [redacted]

Field Training Officer Emp # [redacted] | Last Name [redacted] | First Name [redacted] | M.I. [redacted]

E __

Employee # | Last Name | First Name | M.I.

Sex: | Race: | Rank: | Unit Assignment: | Work Assignment (Unit #, Module, etc.):

ShiftTime (*circle only one*): EM PM Day | ShiftType (*circle only one*): Regular Overtime Off Duty | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case # | Interviewed? ☐

Hrs of sleep prior to shooting: | Duty Time (hrs): | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest | Other Factors:

Age: | Height: | Weight:

Range Qualification Date: | PPC Qualification Date: | Laser Training Date:

Certified with Weapon Used? ☐ | Patrol Certification? ☐ | Certification Unit: | Prior Shootings? ☐ | Number of Prior Shootings:

Field Training Officer Emp # | Last Name | First Name | M.I.

Field Training Officer Emp # | Last Name | First Name | M.I.



Officer Involved Shooting Suspect Information

URN: 002-12256-0399-057

Suspect Information

S 1

Last Name TOWNER	First Name ELIJAH	M.I.
AKA Last Name	First Name	M.I.

Sex: M Race: B	Street Address: [redacted]	City [redacted]	State & Zip Code: [redacted]
Work Phone: [redacted]	Home Phone: [redacted]	Social Security #:	Driver's License #: [redacted]
Age: 20 D.O.B. 11-12-82	Height: 5'09" Weight: 160	FBI # [redacted]	CII # [redacted]
Booking # 7494695	Primary Charge: 187 P.C. MURDER	Secondary Charge: 12031(2)(A) P.C. EX-FELON WITH A GUN	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☒	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make OLDSMOBILE		Model: ALERO	Year: 1999

S__

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S__

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

See Other Side

INVESTIGATIVE SUMMARY
USE OF FORCE
TYPE: DEPUTY INVOLVED SHOOTING-NON-HIT
I.A.B. FILE NUMBER: SH 2076559
URN: 002-12556-0399-057

On Tuesday, November 26, 2002, Sergeants Richard Smith and Joseph Gooden, along with Lieutenant Stacy Lee of the Internal Affairs Bureau, responded to [redacted] Cranbrook Ave., City of Hawthorne regarding a Deputy Involved Shooting involving Lennox Station personnel. Lieutenant Ray Peavy, Sergeant Tim Miley and Investigators Elizabeth Smith, Dan McElderry and Karen Shonka of Homicide Bureau responded to investigate the criminal case.

The summary of this incident is based on information obtained from interviews of the involved personnel and witnesses, as well as physical evidence collected at the scene by the Los Angeles Sheriff's Department Crime Lab personnel **(refer Exhibit A)**

.

INVOLVED PERSONNEL:

Deputy [redacted] #[redacted]	[redacted]	[redacted]
Deputy Regan P. Fitzgerald #[redacted]	MW/[redacted]	6'00"/190 LBS

EMPLOYEE WORK HISTORY

Deputy [redacted]

Department Hire Date
Date Assigned to Patrol
Date Completed Training
Prior Shooting Incidents


[redacted]

Deputy Regan Fitzgerald.

Department Hire Date	12-20-96
Date Assigned to Patrol	[redacted]
Date Completed Training	
Prior Shooting Incidents	1

SUSPECT

Elijah Towner, BK#7494695 MB/20 5'09"/160 LBS

Suspect Towner has an [redacted] (refer Exhibit C)

.

WITNESSES

[redacted] MA/35
[redacted] FB/38 [redacted]

INJURIES

There were no injuries to the Deputies involved in this incident.

Suspect Towner had a cut lip, which he said he received from broken glass. A small grazing wound was seen by Sergeant Miley on the suspect's upper right thigh and a red swollen area to his right hip area was also seen. The suspect declined medical treatment; however, he was taken to RFK Medical Center for evaluation.

PHYSICAL EVIDENCE

Nine fired Winchester .45 Auto caliber cartridge cases were found in the street in front of [redacted] Cranbrook Ave. and one fired Winchester .45 Auto caliber cartridge case was found in the street at the corner of 126th St. and Cranbrook Ave.

Two fired Winchester 9 mm Luger caliber cartridge cases were found in the street in front of [redacted] and [redacted]

A bag containing the suspect's clothing which included an outer shirt with what appeared to be a bullet puncture hole, a t-shirt with what appears to be a bullet puncture hole with blood and a small hole on the right pant leg of blue jeans.

During an examination of the suspect's person by Sergeant Miley, what appeared to be a bullet graze wound was observed on the suspect's right leg and a bruise on the upper right thigh consistent with a bullet strike that did not penetrate the skin was seen.

INVESTIGATOR OBSERVATIONS:

After the suspect vehicle was found abandoned in the middle of Yukon St. a containment of the area utilizing Sheriff's deputies and Hawthorne Police officers was established. At approximately 0700 hours Hawthorne Police received a call of a suspicious person at [redacted] in the city of Hawthorne. Hawthorne Police units responded and saw a male black in front of that location. The male black ran from the Hawthorne officers and was stopped at [redacted] S. Cranbrook Ave. A field show-up was conducted with the involved deputies and a positive identification was made. The suspect was taken into custody at that time.

WEAPONS USED BY DEPUTY PERSONNEL:

Deputy [redacted] used a Department authorized Heckler and Koch .45 caliber pistol, model UPS, ser # [redacted] firing ten rounds of Department authorized .45 caliber ammunition.

Deputy Fitzgerald used a Department issued Beretta 9MM pistol model 92F, ser #BER [redacted] firing two rounds of Department issued 9MM ammunition.

WEAPON USED BY THE SUSPECT

Suspect Towner used a 1999 Oldsmobile Alero, driving directly at the involved deputies on separate occasions. Additionally, an SNV 9MM pistol, ser # [redacted] was recovered on the sidewalk at the location the suspect vehicle was found abandoned.

PROPERTY DAMAGE:

The suspect vehicle, belonging to the suspect's [redacted] and subsequently reported stolen, received moderate damage to the drivers side consistent with a sideswipe contact with the radio car at the scene of the shooting. The suspect vehicle also received several gunshots to its windows and body.

A residence at [redacted], owned by [redacted] received a gunshot to an outside stucco wall. The round did not penetrate to the interior and caused a 3 inch diameter hole to the outside. No claim for damages has been filed.

CRIMINAL INVESTIGATOR AND CHARGES FILED:

Homicide Bureau

Sergeant Tim Miley # [redacted]
Detective Elizabeth Smith # [redacted]

Suspect Towner was charged with two counts of 245(c) P.C., one count of 2800.2 C.V.C., one

count of 10851 C.V.C. and one count of 12025(a)(1) P.C. in addition to a probation violation for a previous 422 P.C. conviction.

LIGHTING OR WEATHER CONDITIONS:

The lighting at the scene was limited to one streetlight approximately 100 feet south of the incident location. Light from this streetlight was partially blocked by a large tree situated between the streetlight and the incident location. On the night of the incident high winds were prevalent in the area.

INVOLVED EMPLOYEES STATEMENTS:

Deputy Regan Fitzgerald

Deputy Fitzgerald and Deputy [redacted] were assigned to Unit [redacted] shift, which patrols the central section of Lennox Station area. He was the driver and Deputy [redacted] was the bookman. Deputy Fitzgerald was wearing a Sheriff's Class A uniform with Sam Brown gun belt which was equipped with his duty weapon, holster, handcuffs, O.C. spray and portable Sheriff's radio.

Deputy Fitzgerald said that around 0100 hours he drove through a Shell gas station on the northwest corner of Crenshaw Bl. And El Segundo Bl. On a routine patrol check. He saw a vehicle exit the gas station, at a high rate of speed, without its headlights illuminated. As the vehicle accelerated westbound on El Segundo Bl., it went into the center lane and then into the eastbound lanes of traffic. Due to the erratic driving and no headlights, he believed that the driver was under the influence and proceeded to follow the vehicle westbound on El Segundo Bl. The vehicle turned northbound on Chadron Ave. and a "few seconds" later he made the turn onto, what Deputy Fitzgerald knew to be a dead end street.

Deputy Fitzgerald said that after he turned onto Chadron Ave., he saw the suspect vehhicle completing a three point turn. The suspect vehicle then drove directly at him, accelerating as it did so. He turned on the radio cars rotating overhead lights and his side spot light to make the suspect aware that he was driving at a police vehicle. The suspect continued accelerating at him, causing him to brake and swerve hard to the right to avoid a collision. Deputy Fitzgerald turned his vehicle around and began to pursue the suspect vehicle.

Deputy Fitzgerald said that at this point, Deputy [redacted] initiated a pursuit broadcast over Sheriff's radio, stating that they were in pursuit of a possible reckless driver under the influence. The suspect turned westbound on El Segundo Bl. To northbound Yukon St. at a high rate of speed. He estimated that they were five to eight seconds behind the suspect at this point. On Yukon St., Deputy Fitzgerald saw the suspect turn west on 126th St. As he (Fitzgerald) turned west on 126th St., he saw brake lights turning south on Cranbrook Ave. He turned south on Cranbrook Ave. and at [redacted] Cranbrook Ave., he saw the suspect vehicle parked in a driveway.

He braked sharply and turned the radio car into the driveway at an angle. The radio car stopped with the right front fender tapping a short brick wall and the front passenger door of the radio car positioned against the suspect vehicle's left rear bumper.

Deputy Fitzgerald saw Deputy [redacted] exit the radio car and he believed that the suspect had fled from the vehicle. He heard Deputy [redacted] yell "The guy bailed out. The guy bailed out," and he prepared to set up a containment of the area. At this point he saw the suspect vehicle move backward and Deputy [redacted] jump out of the suspect vehicles path. He heard five to seven shots as the suspect vehicle scraped along the passenger side of the radio car, pushing the radio car into the street. He exited the radio car, to avoid being trapped, and ran into the street to avoid being struck by the suspect's vehicle. He saw the suspect vehicle facing southbound. The suspect vehicle then drove directly at him, forcing him to jump out of the vehicle's path. In fear for his life, he fired two rounds from his duty weapon, he believed, striking the suspect vehicle in the front, before his weapon malfunctioned. As the suspect vehicle drove southbound Cranbrook Ave., Deputy Fitzgerald and Deputy [redacted] re-entered their radio car and began to pursue the suspect vehicle as they put out a radio broadcast of the incident and pursuit.

Deputy Fitzgerald said that they followed the suspect southbound on Cranbrook Ave. and when they reached El Segundo Bl., saw a Hawthorne Police Department unit turn from westbound El Segundo Bl. to northbound Yukon St. He followed the Hawthorne unit and saw the suspect vehicle stopped in the middle of Yukon St. The Hawthorne officers approached the vehicle and determined that the suspect had fled. As they set up a containment of the area, a Hawthorne Police Officer located a handgun lying on the west sidewalk of Yukon St., (refer to Investigators Observations for further).

Deputy [redacted]

Deputy [redacted] and Deputy Fitzgerald were assigned to Unit [redacted] shift, which patrols the central section of Lennox Station area. He was the bookman and Deputy Fitzgerald was the driver. Deputy [redacted] was wearing a Sheriff's Class A uniform with Sam Brown gun belt which was equipped with his duty weapon, holster, handcuffs, O.C. spray and portable Sheriff's radio.

Deputy [redacted] said that around 0110 hours Deputy Fitzgerald drove through a Shell gas station on the northwest corner of Crenshaw Bl. and El Segundo Bl. on a routine patrol check. Deputy [redacted] saw a vehicle exit the gas station at a high rate of speed without its headlights illuminated. As the vehicle accelerated westbound on El Segundo Bl., it went into the center lane and then into the eastbound lanes of traffic. Due to the erratic driving and no headlights, Deputy [redacted] believed that the driver was under the influence and Deputy Fitzgerald proceeded to follow the vehicle westbound on El Segundo Bl. The vehicle turned northbound on Chadron Ave. and a "few seconds" later Deputy Fitzgerald made the turn onto Chadron Ave., at which time Deputy [redacted] noticed it was a dead end street.

Deputy [redacted] said that after Deputy Fitzgerald turned onto Chadron Ave., he saw the suspect vehicle make a u-turn. The suspect vehicle then drove southbound, directly at him. Deputy [redacted] saw Deputy Fitzgerald turn on the radio cars overhead lights. The suspect continued driving directly at them, causing Deputy Fitzgerald to jerk the radio car to the right to avoid being struck. Deputy [redacted] said their vehicle began to skid as the suspect vehicle went past them. Deputy Fitzgerald was able to maintain control of their vehicle, turn around and begin to pursue the suspect vehicle as Deputy [redacted] broadcast the pursuit. Deputy [redacted] saw the suspect vehicle turn eastbound on El Segundo Bl. at speeds reaching 60 to 70 miles per hour. The suspect vehicle then turned northbound Yukon St.

Deputy [redacted] said that he saw the suspect vehicle turn westbound on 126th St. failing to stop at the stop sign. At this point the suspect vehicle had a "significant lead" on them and they sped up in order to catch up. He saw the headlights of the suspect vehicle turn southbound on Cranbrook Ave. from 126th St. They turned southbound on Cranbrook Ave., but could no longer see the suspect vehicle.

As they proceeded southbound on Cranbrook Ave. Deputy [redacted] saw the suspect vehicle parked in a driveway on the west side of the street. He advised Deputy Fitzgerald that the vehicle was in the driveway, at which time Deputy Fitzgerald immediately pulled to the right and the parol vehicle drove over the curb onto the edge of the sidewalk, stopping as it bumped into a fence post. Deputy [redacted] believed the suspect had fled and told Deputy Fitzgerald "He bailed out." Although he believed that the suspect had fled, Deputy [redacted] unholstered his weapon as he exited the patrol vehicle, he reached for his portable radio to advise assisting units that the suspect had fled and to begin establishing a containment. Deputy [redacted] said that he was unsure of the street he was on, and wanted to listen for sounds of the suspect fleeing, so he hesitated prior to speaking.

Deputy [redacted] said that while exiting the radio car he saw the brake lights illuminate as the suspect vehicle went into reverse. He then knew that the suspect was going to drive the vehicle at him. Deputy [redacted] heard the suspect vehicle being gunned in reverse, and he ran approximately five to seven steps to get out of the way of the suspect vehicle as it drove directly at him.. The suspect vehicle crashed into the side of the radio car and scraped it's side all along the driver's door of the suspect's vehicle, missing him, by his estimate by less than ten inches. Deputy [redacted] believed he was going to be intentionally run over and fearing for his life, he fired several shots from his weapon, an "H & K" .45 caliber pistol.

Deputy [redacted] said that after the suspect vehicle was in the street, he saw the suspect put the vehicle in drive and drive directly at Deputy Fitzgerald, who was on the opposite side of the patrol vehicle. As the suspect drove directly at Deputy Fitzgerald, Deputy Fitzgerald jumped back and fired two rounds at the suspect. The suspect drove southbound on Cranbrook Ave. past Deputy [redacted] and Deputy Fitzgerald. It took a couple of moments for him and Deputy Fitzgerald to compose themselves, and Deputy [redacted] had difficulty opening the passenger side door of the radio car due to the damage caused by the suspect hitting the radio car.. Once inside

the radio car, Deputy [redacted] ejected the magazine in his weapon and inserted a full magazine.

Deputy [redacted] said that they followed the suspect southbound on Cranbrook Ave. and when they reached El Segundo Bl., they saw a Hawthorne Police Department unit turn from westbound El Segundo Bl. to northbound Yukon St. They followed the Hawthorne unit and saw the suspect vehicle stopped about mid-block and in the middle of Yukon St. Deputy [redacted] Deputy Fitzgerald and the Hawthorne officers approached the vehicle and determined that the suspect had fled. As they set up a containment of the area, a Hawthorne Police Officer located a handgun laying on the west sidewalk of Yukon St., (refer to Investigators Observations for further).

WITNESSES STATEMENTS:

[redacted]

Witness [redacted] said that sometime after 0100 hours, while inside his residence, he heard a vehicle speed around the corner from 126th St. to Cranbrook Ave. He heard a loud "bang or crash." He then heard several gunshots. He looked outside his front window and saw a police car back out of the driveway at [redacted] Cranbrook Ave. and drive southbound out of sight.

[redacted]

Witness [redacted] said that between 0100 hours and 0130 hours, she went to her bedroom window, which overlooks the driveway at [redacted] Cranbrook Ave. As she reached the window, she heard one gunshot. She pushed the screen on the window and looked to the east at which time she heard approximately six to seven more gunshots. She saw a police car in the driveway and a dark colored car facing southbound on Cranbrook Ave. The police car backed out of the driveway and "chased" the dark colored car southbound on Cranbrook Ave.

SUSPECT STATEMENTS:

Suspect Elijah Towner

Suspect Towner said that he was driving his [redacted] car without her knowledge. He had stopped at a gas station on Crenshaw Bl. and El Segundo Bl. to telephone a girl he was going to see. After calling the girl, he left the gas station and saw the deputies drive in. He drove west on El Segundo Bl. and saw that he was being followed by the deputies. He turned onto a dead end street by mistake and made a u-turn. He saw the deputies facing him with their headlights off and the overhead lights activated. As he drove past the deputies, he had to swerve in order to miss them.

Suspect Towner said that at that point he knew the deputies were going to chase him and he

accelerated to get away. He said he did this because he had a warrant for his arrest and did not want to go to jail over the holidays. When he reached the first street (El Segundo Bl.) he turned left and then left again on the next street. He turned into the first apartment complex he came to in order to hide from the deputies. He was unable to get into the parking area of the complex because an iron gate blocked the entrance. He parked, turned off the vehicle's lights and sat in the vehicle.

Suspect Towner said that when he saw the deputies pull in behind him he wanted to run. He thought the vehicle was in park, when it was actually in reverse. Because the vehicle door does not open, he attempted to climb out the driver's side window. He accidently stepped on the accelerator as he was trying to get out of the vehicle. The vehicle rolled back and struck the deputies vehicle as he was attempting to get out of his vehicle. At this point the deputies began firing their guns at him. When he reached the street he accelerated south, at which time he saw another deputy in front of him, shooting at him.

Suspect Towner said that he drove to the first street (El Segundo) turned left and then turned left again on the first street (Yukon St.) he came to. About mid-block, he ran from his vehicle and hid under a house for several hours. He saw the police activity and left his hiding place to turn himself in and "just get his time."

I.A.B. Note: Suspect Towner was taken into custody after a foot pursuit by Hawthorne Police officers contradicting his claim that he surrendered to Police.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
CURT LIVESAY• Chief Deputy District Attorney
PETER BOZANICH • Assistant District Attorney

DAVID H. GUTHMAN • Director

July 10, 2003

Captain Frank Merriman
Los Angeles County Sheriff's Department
Homicide Bureau
5747 Rickenbacker Road
Commerce, California 90040

Dear Captain Merriman

RE: J.S.I.D. File No. 02-1016
L.A.S.D. File No. 002-12256-0399-057

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 26, 2002 non-fatal shooting of Elijah Towner by Los County Sheriff's Deputies [redacted] and Regan Fitzgerald. The evidence supports a finding that the deputies acted lawfully in self-defense.

The following analysis is based upon reports prepared by the Los Angeles County Sheriff's Department submitted to this office by Sergeant Tim Miley and Investigator [redacted] on April 1, 2003, as well as an examination of photographs relating to the matter.

FACTUAL ANALYSIS

On November 26, 2002, at approximately 1:09 A.M., uniformed Deputies Regan Fitzgerald and [redacted] were in a marked black and white patrol car traveling on Crenshaw Boulevard approaching El Segundo Boulevard, in the city of Hawthorne. They drove through a gas station at the northwest corner of this intersection and noticed Elijah Towner driving a car with its lights out exiting the gas station at a high rate of speed. Towner drove west on El Segundo Boulevard. Towner was weaving and crossed over the center divider lane into the opposing lane of traffic.

Believing Towner was possibly intoxicated, Deputy Fitzgerald, who was driving, accelerated and pulled behind Towner's car. Towner turned northbound on to Chadron Avenue, a dead-end street. Deputy Fitzgerald turned on to this street a few seconds

behind Towner, as Towner was completing a three-point turn. Towner accelerated and drove directly towards the deputies. Deputy Fitzgerald activated his overhead rotating lights and side spotlights. Towner, however, continued to accelerate towards the patrol car, forcing Deputy Fitzgerald to hit his brakes and swerve hard to the right to avoid a collision. This caused the patrol car to skid as Towner drove past. Fitzgerald turned the patrol car around and began to pursue Towner.

Towner turned west on El Segundo Boulevard, then turned north on Yukon Street, a residential area, where he drove at a speed of approximately 60 to 70 miles per hour. Towner drove through a stop sign and turned west on to 126th Street, then turned south on Cranbrook Avenue.

By the time the deputies turned on to Cranbrook Avenue, they lost sight of Towner's car. As the deputies drove down the street, they saw Towner's car parked in a driveway on the right side of the street at [redacted] Cranbrook Avenue. Deputy Fitzgerald immediately pulled over, stopping the patrol car behind Towner's car at an angle, with the passenger door positioned against Towner's car's left rear bumper. Both deputies believed that Towner had fled from his car and were preparing to set up a containment. Deputy [redacted] stepped out of the patrol car with his gun drawn.

Deputy [redacted] then saw the brake lights on Towner's car come on. Towner then drove in reverse at high speed. [redacted] jumped out of the way as Towner's car missed him by inches, then slammed into the side of the patrol car. Towner's car scraped along the patrol car's passenger side and forced it into the street, causing substantial damage to the patrol car. Believing he was going to be run over, [redacted] fired several shots at Towner's car as it passed him.

Deputy Fitzgerald jumped out of the patrol car to avoid being trapped inside. Fitzgerald ran into the street and found himself facing Towner's car. Towner drove directly at Fitzgerald, forcing him to jump out of the way to avoid being hit. As he was escaping from the front of Towner's car, Fitzgerald fired two rounds towards the passenger side. Towner drove off at high speed.

The deputies jumped into their patrol car and began to pursue Towner. When they arrived at the intersection of Cranbrook Avenue and El Segundo Boulevard, however, they no longer saw Towner's car. They noticed a Hawthorne Police patrol car driving very fast on El Segundo Boulevard which turned on to Yukon Street. The deputies followed and found Towner's car abandoned in the middle of the street. A handgun was found on the sidewalk a few feet away from Towner's car. This gun had scrape marks consistent with having been tossed on the ground. A containment of the area was set up.

At approximately 7:10 A.M., Towner was apprehended by Hawthorne police officers after he was seen running and jumping fences on Kornblum Avenue, two blocks away from where he abandoned his car. Towner was covered with dirt. Further investigation revealed that Towner was driving his [redacted] car at the time of this incident without permission.

As he was being detained for a field show-up, Towner asked to speak to a detective. Detective Dan Mc Elderry told Towner that he would speak with him after the field show-up. Towner asked, "How much time am I looking at?" and spontaneously stated, "I wish the deputies would have just killed me. I fucked up." Towner waived his Miranda rights. Towner stated that after he left the gas station, the deputies activated their red lights and attempted to pull him over. Towner said he got scared because he had a probation violation warrant out for his arrest. [redacted] He admitted fleeing from the deputies because he did not want to go to jail. He pulled into a driveway in an attempt to elude the deputies, but the patrol car stopped behind his car. He thought about exiting the car and running, but instead put the car in reverse. He accelerated backwards and the deputies shot at him. He claimed that he did not realize he had struck the patrol car. He admitted that he drove off and had been hiding under a house. Asked about the gun found on the sidewalk, Towner stated, "I'm gonna have to plead the fifth on that one sir." Towner repeatedly talked about committing suicide by hanging himself in his jail cell, stating, "I fucked up big time! I can't do any more time in jail. I'm gonna kill myself. My life is all fucked up!"

In a subsequent videotaped statement, Towner again admitted fleeing from the deputies. He claimed, however, that he accidentally stepped on the gas as he tried to jump out of the car window, causing the car to accelerate backwards into the patrol car.

Towner sustained what appeared to be a bullet graze wound to his right leg. Towner also had a bruise to his upper right outer thigh that appeared to be consistent with a strike by a bullet that lost velocity and did not penetrate the skin. He declined medical treatment.

Criminal case SA047138 was subsequently filed against Towner based on this incident. On March 6, 2003, Towner pled guilty to one charge of assault with a deadly weapon on a peace officer and one charge of unlawful taking of a vehicle. He was sentenced to twelve years and four months in state prison.

CONCLUSION

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. *People v. Williams (1977) 75 Cal.App. 3d 731.*

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. *California Jury Instructions—Criminal 5.30, 5.32.*

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. *People v. Collins (1961) 189 Cal. App. 2d 575.*

In this case, it appears that Deputies [redacted] and Fitzgerald were justified in their use of deadly force against Elijah Towner. Initially, [redacted] and Fitzgerald tried simply to detain Towner to investigate his reckless driving. Towner instead chose to drive directly at their patrol car, causing Deputy Fitzgerald to take evasive action to avoid a collision, before leading the deputies on a dangerous chase through a residential area. Towner subsequently took both deputies by surprise as he drove in reverse at high speed out of the driveway, coming within inches of striking [redacted] and then ramming the patrol car with Fitzgerald still inside. Towner then continued in his escape by driving directly at Fitzgerald, forcing him to jump out of the way to avoid being hit.

The conclusion of this office is that Deputies [redacted] and Fitzgerald acted reasonably and lawfully in self-defense when they used deadly force against Elijah Towner. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By Edward A. Miller

EDWARD A. MILLER
Deputy District Attorney
(213) 974-3895

c: Deputy [redacted] #[redacted]
Deputy Regan Fitzgerald #[redacted]